

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION**

**ABILENE PARAMOUNT
PROPERTIES,**

Plaintiff,

VS.

**AMERICAN STATES INSURANCE
COMPANY,**

Defendant.

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CASE NO. _____

DEFENDANT AMERICAN STATES INSURANCE COMPANY
NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §1446(a) and Local Rule 81.1, Defendant American States Insurance Company (“American States” or “Defendant”) files this Notice of Removal, hereby removing this action from the 42nd Judicial District Court of Taylor County, Texas to the United States District Court for the Northern District of Texas, Abilene Division. Removal is based on diversity jurisdiction because there is complete diversity between Plaintiff Abilene Paramount Properties (“Plaintiff”) and Defendant and the amount in controversy exceeds \$75,000, exclusive of interest and costs. In support of its Notice of Removal, Defendant would respectfully show the Court as follows:

I.

INTRODUCTION

This dispute arises from Plaintiff's claim for hail damage to its four properties in Abilene, Texas: (1) 352 Cypress Street; (2) 1149 N. 2nd Street; (3) 174 Cypress Street; and (4) 220-242 Cypress Stree (the "Properties"). Plaintiff alleges that Defendant breached a policy of insurance, and violated certain provisions of the Texas Insurance

Code and Texas Deceptive Trade Practices Act (“DTPA”) by, among other things, failing to pay Plaintiff’s claim for damages resulting from an alleged hailstorm.

On September 3, 2015, Plaintiff filed its Original Petition in the 42nd Judicial District Court of Taylor County, Texas. American States was personally served with a citation and a copy of Plaintiff’s Original Petition on September 24, 2015 through its registered agent for service of process. Defendant timely filed an answer to Plaintiff’s Original Petition. This Notice of Removal is being filed within thirty (30) days of service of the Petition, and is thus timely filed under 28 U.S.C. §1446(b).

II.

BASIS FOR REMOVAL

A. DIVERSITY OF CITIZENSHIP

Removal is proper because there is complete diversity between the parties. *See* 28 U.S.C. § 1332(a). Plaintiff Abilene Paramount Properties is a citizen of Texas. *See* Plaintiff’s Original Petition ¶3. American States Insurance Company is a corporation organized under the laws of the State of Indiana, with its principal place of business in Boston, Massachusetts.

B. AMOUNT IN CONTROVERSY

Generally, the amount in controversy for purposes of establishing federal jurisdiction should be determined by the plaintiff’s complaint. *De Aguilar v. Boeing Co.*, 47 F.3d 1404, 1411-12 (5th Cir. 1995). Here, it is apparent from the face of Plaintiff’s Original Petition that its claims exceed \$75,000.00. In paragraph 70 of the Petition, Plaintiff states that “Plaintiff seeks monetary relief over \$1,000,000... .” *See* Plaintiff’s Original Petition, ¶ 70.

Therefore, removal of this action is proper under 28 U.S.C. § 1441(a). This is a civil action brought in state court and this Court has original jurisdiction over the subject matter pursuant to 28 U.S.C. § 1332(a). In addition, Plaintiff's citizenship is diverse from American States. Finally, as alleged in his petition, Plaintiff seeks to recover in excess of \$1,000,000. from Defendant. Therefore, the amount in controversy in this case clearly exceeds \$75,000.00.

III.

CONSENT TO REMOVAL UNNECESSARY

American States is the only defendant named in Plaintiff's Petition, and thus no additional consent is needed for removal.

IV.

COMPLIANCE WITH PROCEDURAL REQUIREMENTS

As required by Local Rule 8.1(a), filed concurrently with this Notice of Removal is a completed civil cover sheet, supplemental civil case cover sheet and a signed Certificate of Interested Persons that complies with LR 3.1(c). Additionally, the following exhibits are attached:

- **EXHIBIT A** Index of all documents filed in state court;
- **EXHIBIT B** Register of Actions in the state court action;
- **EXHIBIT C-1-C-2** A copy of each document filed in the state court action.

V.

CONCLUSION AND PRAYER

Based on the foregoing, Defendant American States Insurance Company respectfully requests that the above-captioned action now pending in the 42nd Judicial

District Court of Taylor County, Texas be removed to the United States District Court for the Northern District of Texas, Abilene Division.

Respectfully submitted,

/s/ Mark D. Tillman

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**ATTORNEYS FOR DEFENDANT
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COMPANY**

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of Defendant's Notice of Removal has been forwarded to Plaintiff's counsel of record via electronic means and/or facsimile, on the 22nd day of October, 2015, in accordance with the Federal Rules Of Civil Procedure

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/s/ Mark D. Tillman

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